

Pro Se 2 (Rev. 12/16) Complaint and Request for Injunction

UNITED STATES DISTRICT COURT

for the

Northern District of California

San Jose Division

E-FILING

C 19 03241

Case No.

(to be filled in by the Clerk's Office)

NC

Daniel Delacruz, Sr.,

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

The State Bar of California, et al.

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

COMPLAINT AND REQUEST FOR INJUNCTION

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Daniel Delacruz, Sr.
Street Address	PO Box 1425
City and County	Salinas, County of Monterey
State and Zip Code	Ca. 93902
Telephone Number	(831) 754-1037
E-mail Address	daniieldlc@aol.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

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Defendant No. 1

Name	The State Bar of California, a California public entity
Job or Title <i>(if known)</i>	
Street Address	180 Howard Street
City and County	San Francisco, San Francisco County
State and Zip Code	Ca. 94105
Telephone Number	(415) 538-2000
E-mail Address <i>(if known)</i>	

Defendant No. 2

Name	Steven James Moawad
Job or Title <i>(if known)</i>	Chief Trial Counsel
Street Address	845 S. Figueroa Street
City and County	Los Angeles, Los Angeles County
State and Zip Code	Ca. 90017
Telephone Number	(213) 765-1000
E-mail Address <i>(if known)</i>	

Defendant No. 3

Name	The City of Fresno, a public entity
Job or Title <i>(if known)</i>	
Street Address	2600 Fresno Street
City and County	Fresno, Fresno County
State and Zip Code	Ca. 93721
Telephone Number	(559) 621-2489
E-mail Address <i>(if known)</i>	

Defendant No. 4

Name	Ferguson, Praet, & Sherman APC, a California Corporation
Job or Title <i>(if known)</i>	
Street Address	1631 E 18th Street
City and County	Santa Ana, Orange County
State and Zip Code	Ca. 92705
Telephone Number	(714) 953-5300
E-mail Address <i>(if known)</i>	

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Defendant No. 5

Name
 Job or Title *(if known)*
 Street Address
 City and County
 State and Zip Code
 Telephone Number
 E-mail Address *(if known)*

Steve Card
 Lieutenant with the Fresno Police Department
 2323 Mariposa Street
 Fresno, Fresno County
 Ca. 93721
 (559) 621-2329
 Steve.Card@fresno.gov

Defendant No. 6

Name
 Job or Title *(if known)*
 Street Address
 City and County
 State and Zip Code
 Telephone Number
 E-mail Address *(if known)*

Cathy Sherman
 .
 1631 E 18th St.
 Santa Ana, Orange County
 Ca. 92705
 (714) 953-5300
 csherman@law4cops.com

Defendant No. 7

Name
 Job or Title *(if known)*
 Street Address
 City and County
 State and Zip Code
 Telephone Number
 E-mail Address *(if known)*

Fresno Police Department, a public entity
 2323 Mariposa Street
 Fresno, Fresno County
 Ca. 93721
 (559) 621-7000

Defendant No. 8

Name
 Job or Title *(if known)*
 Street Address
 City and County
 State and Zip Code
 Telephone Number
 E-mail Address *(if known)*

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? *(check all that apply)*

☒ Federal question ☐ Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

18 U.S.C. §1962 and 18 U.S.C. §1964(c) a.k.a. Racketeer Influenced and Corrupt Organizations Act ("RICO"), the Supremacy Clause, and the First, Fourth, Fifth, Eighth, and Fourteenth Amendments of the United States Constitution. 42 U.S.C. §12101 et seq., 42 U.S.C. §12132, 42 U.S.C. §12202, 28 C.F.R. §36.206, and 29 C.F.R. §1630.12 of the Americans with Disabilities Act, amended 2009.

B. If the Basis for Jurisdiction Is Diversity of Citizenship**1. The Plaintiff(s)****a. If the plaintiff is an individual**

The plaintiff, *(name)* Daniel Delacruz, Sr. , is a citizen of the State of *(name)* California .

b. If the plaintiff is a corporation

The plaintiff, *(name)* , is incorporated under the laws of the State of *(name)* , and has its principal place of business in the State of *(name)* .

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)**a. If the defendant is an individual**

The defendant, *(name)* Steven James Moawad , is a citizen of the State of *(name)* California . Or is a citizen of *(foreign nation)* .

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b. If the defendant is a corporation

The defendant, (name) Ferguson, Praet, & Sherman, APC, is incorporated under the laws of the State of (name) California, and has its principal place of business in the State of (name) California.
Or is incorporated under the laws of (foreign nation) _____,
and has its principal place of business in (name) _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the injunction or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. Where did the events giving rise to your claim(s) occur?

Monterey County, San Francisco County, Los Angeles County, Orange County, Fresno County

B. What date and approximate time did the events giving rise to your claim(s) occur?

Claim #1. Beginning around June 2019

Claim #2. Beginning around June 11, 2015 and continuing to the present

- C. What are the facts underlying your claim(s)? *(For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)*

Claim #1. The defendants are colluding with the State Bar to use the U.S. postal service, telephone and internet in violation of 18 U.S.C. § 1341 (mail fraud) and § 1343 (wire fraud) spanning several years to conduct their pattern of multiple false and fraudulent misrepresentations to Delacruz in violation of 18 U.S.C. §1962 a.k.a. RICO that his aforementioned federal and constitutional rights would be recognized pursuant to Business & Professions Code §6085 of the State Bar Act.

Claim #2. The law firm of Ferguson, Praet & Sherman representing the City of Fresno, the Fresno Police Department and police officer Steve Card violated RICO because they violated Delacruz' constitutional rights to privacy when they disseminated a police report around June 11, 2015 - that was falsified by police officer Steve Card containing Delacruz' social security number - via email to the following twenty four email addresses: dmccarthy@fentonkeller.com, scarroll@gmlegal.net, mtrimble@gordonrees.com, jim@lg-attorneys.com, elia@lg-attorneys.com, bpraet@aol.com, csherman@law4cops.com, danielle.lee@calbar.ca.gov, charlene.foster@calbar.ca.gov, lisa.ramon@calbar.ca.gov, dgilmore@gmlegal.net, mcameron@fentonkeller.com, ccampbell@jarvisfay.com, ctorres@jarvisfay.com, katherine.hogan@ci.salinas.ca.us, kdrake@jarvisfay.com, jennifer@jarvisfay.com, krigby@gmlegal.net, iwillard@gmlegal.net, michael.wilk@lewisbrisbois.com, mmasuda@nheh.com, lrenwick@gmlegal.net, david.long@lewisbrisbois.com, and lupe.mireles@lewisbrisbois.com.

IV. Irreparable Injury

Explain why monetary damages at a later time would not adequately compensate you for the injuries you sustained, are sustaining, or will sustain as a result of the events described above, or why such compensation could not be measured.

To obtain a preliminary injunctive relief, a plaintiff must show: (1) a likelihood of success on the merits and the possibility of irreparable injury; or (2) that serious questions going to the merits were raised and the balance of hardships tips sharply in its favor. *Nelson v. Nasa*, 530 F.3d 865, 872-873 (9th Cir. 2008). (See *Nelson*, 530 F.3d [“The balance of hardships tips sharply toward Appellants, who face a stark choice - either violation of their constitutional rights or loss of their jobs.” *Id.* at 881. “Unlike monetary injuries, constitutional violations cannot be adequately remedied through damages and therefore generally constitute irreparable harm. See *Monterey Mech. Co. v. Wilson*, 125 F.3d 702, 715 (9th Cir. 1997). Moreover, the loss of one's job does not carry merely monetary consequences; it carries emotional damages and stress, which cannot be compensated by mere back payment of wages.” *Id.* at 882.]; (See *In re Crawford*, 194 F.3d 954, 958 (9th Cir. 1999) [“We agree...that the indiscriminate public disclosure of SSNs, especially when accompanied by names and addresses, may implicate the constitutional right to informational privacy...[T]he harm that can be inflicted from the disclosure of a SSN to an unscrupulous individual is alarming and potentially financially ruinous.” In an era of rampant identity theft, concern regarding the dissemination of SSNs is no longer reserved for libertarians inveighing against the specter of national identity cards. “[A]rmed with one's SSN, an unscrupulous individual could obtain a person's welfare benefits or Social Security benefits, order new checks at a new address on that person's checking account, obtain credit cards, or even obtain a person's paycheck.”... Unlike a telephone number or even a name, an individual's SSN serves as a unique identifier that cannot be changed and is not generally disclosed by individuals to the public.” (Internal citations omitted for clarity). Medical identity theft is also commonly used to acquire opioid medications from pharmacies causing havoc on society from an opioid abuse epidemic, which led Congress to place on its legislative calendar the Opioid Crisis Response Act of 2018. (See *Nelson*, 530 F.3d at 878 [“Today's society has made the bold and unequivocal statement that illegal substance abuse will not be tolerated. The government declared an all-out war on illegal drugs more than a decade ago.”])).

Claim #1. Granting an injunction is justified because Delacruz will suffer irreparable harm because Delacruz is preparing to submit his third law license application using the telephone, internet and U.S. postal service to the State Bar which will charge and collect at least \$500 from Delacruz using his credit card, personal and certified checks. Delacruz needs to enjoin all defendants from violating Delacruz' rights under the Supremacy Clause, and the First, Fourth, Fifth, Eighth, and Fourteenth Amendments of the U.S. Constitution. Delacruz' two previous law license applications were denied because the defendants as private and public enterprises colluded with the State Bar by using the U.S. postal service, telephone and internet spanning several years to conduct their pattern of multiple false pretenses and fraudulent misrepresentations to Delacruz in violation of the RICO Act because the defendants violated Delacruz aforementioned federal and constitutional rights that the State Bar claimed would be recognized pursuant to Business & Professions Code §6085 of the State Bar Act, which states in relevant part: "Any person complained against shall be given fair, adequate, and reasonable notice and have a fair, adequate, and reasonable opportunity and right: (a) To defend against the charge by the introduction of evidence. (b) To receive any and all exculpatory evidence from the State Bar after the initiation of a disciplinary proceeding in State Bar Court, and thereafter when this evidence is discovered and available. (d) To examine and cross-examine witnesses. (e) To exercise any right guaranteed by the California Constitution or the United States Constitution, including the right against self-incrimination. He or she shall also have the right to the issuance of subpoenas for attendance of witnesses to appear and testify or produce books and papers, as provided in this chapter." Delacruz was also required to take the attorney's oath within five years from passing the February 2011 bar exam under Rule 4.17 (A), Title 4, Division 1, State Bar Admissions and Educational Standards. However, an injunction to toll the five year statute of limitations for the seven years that proceedings have been pending in court is justified to avoid infirming Delacruz' constitutional rights under U.S. v. Delaware & Hudson Co., 213 U.S. 366, 407-408 (1909) and Artis v. District of Columbia, 138 S. Ct. 594, 598 (2018).

Claim #2. Granting an order to destroy the police report containing Delacruz' social security number is justified because the disclosure of his social security number poses a serious threat to Delacruz' privacy rights because of rampant identity theft. As such, if Delacruz' social security numbers and medical records are exploited in this era of rampant identity theft as a result of any of the Defendants' mishandling of Delacruz' confidential information, there is a threat that identity thieves can injure, modify or impair the medical examination, diagnosis, treatment, or care of Delacruz' undisputed hereditary disorder of Fabry Disease. Specifically, identity thieves commit financial crimes using pilfered social security numbers. This can cause injury to Delacruz if his financial resources or medical benefits are pilfered by an identity thief or if he is unjustly incarcerated because an identity thief has committed a crime in Delacruz' name. Medical identity theft is also used by identity thieves to acquire opioid medications from pharmacies causing havoc on our society from an opioid abuse epidemic.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

Claim #1. All defendants should be enjoined from colluding with the State Bar from violating the RICO Act through the State Bar's pattern of collecting thousands of dollars in fees from law license applicants including Delacruz based on the State Bar's aforementioned fraudulent and false pretenses, which proximately caused Delacruz' damages over seven years in excess of \$2,100,000 because of lost income as an attorney and from at least \$5,051 in fees that Delacruz paid the State Bar using Delacruz' credit card, personal and certified checks. Delacruz is also entitled to threefold damages pursuant to 18 U.S.C. §1964(c) of the RICO Act.

Claim #2. All defendants should be ordered from disclosing or disseminating the aforementioned false police report containing confidential information including Delacruz' social security number and to destroy all physical and digital copies thereof including any and all documents containing Delacruz' social security number.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 06/10/2019

Signature of Plaintiff /s/Daniel Delacruz 

Printed Name of Plaintiff Daniel Delacruz, Sr.

B. For Attorneys

Date of signing: _____

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Street Address _____

State and Zip Code _____

Telephone Number _____

E-mail Address _____